

DISTRICT COURT JUDGE BENJAMIN H. SETTLE
MAGISTRATE JUDGE KAREN L. STROMBOM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

THOMAS W.S. RICHEY,

Plaintiff,

v.

D. DAHNE,

Defendant.

NO. 3:12-CV-05060-BHS-KLS

DEFENDANT’S RESPONSE TO
PLAINTIFF’S MOTION FOR
NOTICE OF ADJUDICATIVE FACT

Defendant, DENNIS DAHNE, by and through his attorneys of record, ROBERT W. FERGUSON, Attorney General, and HALEY BEACH, Assistant Attorney General, respectfully responds to Plaintiff Thomas Richey’s Motion for Notice of Adjudicative Fact. ECF No. 112.

I. RESPONSE

The Court should deny Plaintiff’s motion because he seeks judicial notice of legal conclusions rather than facts subject to judicial notice. “Courts may only take judicial notice of adjudicative facts that are ‘not subject to reasonable dispute.’” *United States v. Ritchie*, 342 F.3d 903, 908-09 (9th Cir. 2003) (quoting Fed. R. Evid. 201(b)). Facts are subject to judicial notice only if they are indisputable; thus, only if the facts “are ‘generally known’” under Rule 201(b)(1) or ‘capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned’ under Rule 201(b)(2).” *Id.* Plaintiff seeks judicial notice of legal conclusions rather than facts. To the extent any of these legal conclusions are prior holdings

1 from this case, judicial notice of the fact of the prior holding is unnecessary. For these reasons,
2 the Court should deny Plaintiff's motion.

3 **II. CONCLUSION**

4 Defendant respectfully requests that the Court deny Plaintiff's Motion for Notice of
5 Adjudicative Facts because it does not seek judicial notice of any facts properly subject to
6 judicial notice.

7 RESPECTFULLY SUBMITTED this 7th day of August, 2019.

8 ROBERT W. FERGUSON
9 Attorney General

10 s/ Haley Beach
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11 Assistant Attorney General
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CERTIFICATE OF SERVICE

I certify that on the date below I caused to be electronically filed the DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR NOTICE OF ADJUDICATIVE FACT with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed a copy of the document through United States Postal Service to the following non CM/ECF participant:

THOMAS W.S. RICHEY, DOC #929444
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MOROE WA 98272-7002

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 7th day of August, 2019, at Olympia, Washington.

s/ Cherrie Melby
CHERRIE MELBY
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